

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

AUG 5 1998

FCC MAIL ROOM

In the Matter of)
)
Administration of Federal)
Universal Service Support Mechanisms)

CC Dockets No. 97-21 and 96-45

COMMENTS OF VERMONT PUBLIC SERVICE BOARD

The Commission has sought comment in DA 98-1336 on administrative structures the Commission should adopt regarding universal service. The Vermont Public Service Board requests that the Commission alter the charter of the Universal Service Administrative Company (USAC). USAC should be authorized, in addition to administering federal universal service programs, to contract with one or more states to administer universal service programs provided under authority of 47 U.S.C. § 254(f).

Role of Universal Service Administrator

In establishing a new universal service structure under the Telecommunications Act of 1996, the Commission chose to end NECA's role as administrator of federal universal service programs. In its May 8, 1997 order, the Commission established four criteria for such an administrator. These included:

- 1) that the administrator be neutral and impartial;
- 2) that the administrator not advocate specific positions to the commission in proceedings not related to the administration of the universal service support mechanisms;
- 3) that the administrator not be aligned with or associated with any particular industry segment; and

- 4) that the administrator not have a direct financial interest in the support mechanisms established by Congress.¹

At the time, the Commission's universal service programs were administered by the National Exchange Carrier Association (NECA). In applying this four-part standard to NECA, the Commission noted that:

... many commenters question NECA's ability to act as a neutral arbitrator among contributing carriers because NECA's membership is restricted to ILECs, its Board of Directors is composed primarily of representatives of ILECS, and it has taken advocacy positions in several Commission proceedings.²

The Commission's order then noted the importance of the appearance of impartiality for the new administrator, and it disqualified NECA from serving as permanent administrator.³

Subsequently, the Commission created three corporations to administer universal service mechanisms, including the Universal Service Administrative Company (USAC). The Commission is now considering whether to consolidate these three corporations. administer universal service programs and has sought comment generally concerning administrative structures the Commission should adopt regarding universal service.

Regardless of whether the three companies are merged, it appears that USAC will continue to administer the federal high cost and low-income programs.

1. Order of May 8, 1997, FCC 97-157, at ¶ 863.
2. *Id.* at ¶ 866.
3. *Id.*

Vermont's Universal Service Fund

Vermont statute establishes a Universal Service Fund (VUSF).⁴ Currently the VUSF supports Vermont's Lifeline Program, Telecommunications Relay Service, and Enhanced-911 programs. The Vermont legislature may be asked in the future to authorize use of the fund to support one or more of the following: high cost areas; schools and libraries; and public interest payphones. During fiscal year 1998, approximately \$5.5 million was disbursed from the VUSF.

Vermont law directs the Vermont Public Service Board to select a fiscal agent to administer the VUSF. The fiscal agent collects contributions from Vermont carriers and disburses the funds for the support of various authorized programs. The fiscal agent is also responsible for investing fund balances. The relationship between the Vermont Public Service Board and the fiscal agent is controlled by contract. Every three years the contract expires and a competitive bidding process is held for fiscal agent in the new period.

In 1994, following a competitive bidding process, the National Exchange Carrier Association (NECA) was selected as Vermont's fiscal agent. That decision was made in large part due to NECA's thorough knowledge of the communications industry. The selection of NECA was made recognizing that some carriers were uncomfortable. These carriers recognized that NECA performed an advocacy role for certain incumbent local exchange carriers (ILECs), and they were reluctant to provide confidential information to NECA that could give incumbent LECs a competitive advantage.

4. 30 Vermont Statutes Annotated (VSA) §§ 7501 et.seq.

Experience has shown that NECA is fully capable of maintaining confidentiality of information that relates to competitive companies. In 1997, NECA's contract was renewed to cover a second three-year period expiring June 30, 2000. NECA continues to provide excellent service as Vermont's fiscal agent. Nevertheless, when the existing contract expires, Vermont might prefer to consider a subsequent contract with USAC rather than NECA.

State Universal Service Programs Under the Act

The Telecommunications Act of 1996 authorizes state universal service mechanisms.⁵ As has Vermont, the states operating such programs often select financial administrators, and they may agree with the standards that ultimately led the Commission to disqualify NECA from serving as a permanent administrator.

However, any such state is unlikely to find another bidder with comparable qualifications. As Vermont discovered during its 1994 and 1997 request for bids, many otherwise qualified bidders can be found locally, but none is likely to have experience in telecommunications comparable to NECA (now USAC). However, USAC, which was specially chartered to administer federal universal service programs, is not authorized to provide this service to the states. We understand that USAC may administer only universal service programs under direction of the FCC.

This could leave states in an awkward position. USAC, which will soon have the most experience in the country administering universal service programs will, by charter, be

5. 47 U.S.C. § 254(f).

unavailable to provide the needed service. Then, unable to find local bidders with comparable qualifications to USAC, a state may rely upon NECA, even though NECA has already been found by the Commission to be unqualified to administer the federal program.

The Commission should permit USAC to administer both federal and state programs. This would permit states the opportunity to contract with USAC, to contract with NECA (as Vermont now does), or to pick some other vendor.

This action would also improve coordination of universal service programs. Section 254 of the Telecommunications Act envisions the possibility of dual state and federal universal service programs. There can be no better means of ensuring coordination than to share administrators. Vermont should have the opportunity to select USAC to administer its universal service programs, just as the FCC has selected USAC to operate similar federal programs.

Conclusion

The Commission should enlarge the charter of the Universal Service Administrative Company. USAC should be authorized, in addition to administering federal universal service programs, to contract with one or more states to administer universal service programs provided under authority of 47 U.S.C. § 254(f).

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Peter Bluhm".

Peter M. Bluhm, Esq.
Vermont Public Service Board
112 State Street, Drawer 20
Montpelier, Vermont 05602-2701
(802) 229-0130

Attorney for Vermont Public Service Board